

### **REMARKS**

The following remarks are prepared in response to the Office Action mailed June 5, 2008. Claims 1, 2, 4-8, 10-22, 24-27, 30, and 31 remain in the application. Claims 30 and 31 are newly added but do not add any new matter.

#### **35 U.S.C. § 112**

The Office Action rejected Claim 29 under 35 U.S.C. § 112 as being indefinite. Applicant has cancelled Claim 29.

#### **35 U.S.C. §§ 102 and 103**

The Office Action rejected Claims 1, 2, 5, 6, 10, 15, 16, 18, 19, 23, 24, and 26-28 under 35 U.S.C. § 102(b) as being anticipated by *O'Neill* (U.S. Pat. No. 3,731,319). The Office Action also rejected Claims 3, 4, 7-9, 11-14, 20-22, 25, and 29 under 35 U.S.C. § 103(a) as being unpatentable over *O'Neill*.

#### **Independent Claim 1**

Independent Claim 1 has been amended to incorporate features of Claims 3 and 9.

The Office Action admits that *O'Neill* does not teach or suggest “a second panel joined to the first panel and having a first arm section and a first upper back section, wherein the first arm section forms a sleeve and the first upper back section is configured to extend across at least a portion of the upper back of the body, the sleeve having a bend at an elbow region thereof such that a forearm section of the sleeve forms an angle to an upper arm section of the sleeve, and wherein the bend is provided in part by a dart which in the finished garment begins at a seam located at an upper rear side of the upper arm section and terminates adjacent the elbow region.”

Although the Office Action argues on Page 4, that garment pattern design variation is a well-known and widely practiced technique and therefore it would have been obvious to vary

panel and seam locations to reduce strain on the seams, *O'Neill* specifically teaches the desirability of long seams. *O'Neill* provides that “since all seams are stiff, this curve design allows greater elongation by the fact that when tension is put on a curve seam, there is greater flexibility than if it is a straight seam.” (Col. 1, lns. 64-67.) However, an object of the present invention is to produce garments that utilize complex panel shapes to minimize the total number of panels used, the number of seams, and total seam length. (Pg. 3.) The present invention reduces the seam length and the number of seams because “[r]educing seam length and the number of seams also reduces the chances of seams wearing out or splitting.” (Pg. 4.) Thus, *O'Neill's* desire for long seams teaches away from the present invention.

Furthermore, through the use of the darts and the panel configuration in the present invention, the sleeves can more accurately reflect the shape and usual position of the arm while avoiding the need for additional panels of fabric and the necessary seams associated with the additional panels of fabric. (Pg. 6.)

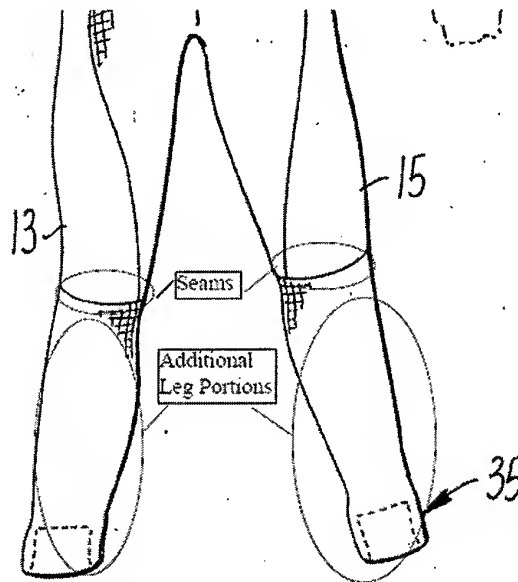
In addition, with the configuration of the present invention, a medium sized wetsuit in an embodiment of the present invention may have 22 feet and 2.5 inches of seams while a conventional wetsuit may have 34 or 45 feet of seams. Such a reduced amount of seams may also reduce an amount of threads and glue in the wetsuit. This may in turn also reduce an amount of weight of the wetsuit. (Pg. 7.)

A reduced seam length and a reduced amount of seams is also beneficial in reducing the chances of seams wearing out or splitting. Furthermore, wetsuits having reduced panel numbers and seam lengths will generally keep a surfer warmer and more comfortable. Reduced seam lengths will also reduce water entry into the suit and the reduction in water entry increases surfer warmth. (Pg. 4.)

Thus, Applicant respectfully requests that the rejection for Claim 1 and its Dependent Claims be withdrawn.

### **Independent Claim 10**

*O'Neill* does not teach or suggest “each leg section is made of a single panel of fabric and includes a dart which begins at a seam on an inner knee region of the body and terminates at an outside calf region.” As seen in Figure 1 of *O'Neill*, leg portions 13 and 15 are attached through seams to two additional leg portions which cover the rest of the user’s legs as highlighted in the reproduction of the relevant portion of FIG. 1 below.



Thus, as seen in Figure 1 of *O'Neill*, there is no teaching that each leg section is made of a single piece of fabric. That is, leg portion 13 is attached to one of the additional leg portions through one of the seams and leg portion 15 is attached to another of the additional leg portions through another one of the seams.

Also, the Office Action on page 3 cites to the inner knee seams of Figure 1 of *O'Neill* for the feature of the darts in the recited claim language of the present invention. However, as noted

in the specification of the present invention, darts are formed by joining edges of a single panel together. (Pg. 4.) In Figure 1 of *O'Neill*, the horizontal seams are not darts because they join two pieces of fabric together on each side of the body. That is, leg section 13 is attached to one of the additional leg sections and leg section 15 is attached to another one of the additional leg sections. Since the additional leg sections are different panels than leg sections 13 and 15, darts are not formed. Also, the substantially curved and vertical seams are not darts. The substantially curved and vertical seams attach leg portions 13 and 15 to what appears to a crotch panel which is separate from leg portions 13 and 15. Therefore, the substantially curved and vertical seams are not darts.

Furthermore, the substantially curved and vertical seams begin at a location of what appears to be near a user's waist region and terminates at an unspecified location of the leg. Thus, the substantially curved and vertical seams in *O'Neill* do not begin at an inner knee region of the body. Also, there is no specific teaching within *O'Neill* that the seam should terminate at an outside calf region.

In contrast, in the present invention, torso section 40 includes leg sections 48 and 48'. Each leg sections 48 and 48' includes a dart which begins at a seam 52, 52' on an inner knee region of the body and which terminates at 50, 50' at an outside calf region of the body. (Pgs. 9-10; Figs. 2, 3A-3C.) By using a dart in the region of the knee and calf, the dart can assist in creating a desired three-dimensional shape for the garment and the leg sections of the present invention can more closely conform to the shape of a human body. (Pg. 6.)

As previously noted, *O'Neill* provides that "since all seams are stiff, this curve design allows greater elongation by the fact that when tension is put on a curve seam, there is greater flexibility than if it is a straight seam." (Col. 1, Ins. 64-67.) Such disclosures by *O'Neill* teach

away from the present invention since the present invention seeks to reduce the number of seams and total seam length.

Thus, Applicant respectfully requests that the rejection for Claim 10 and its dependent claims be withdrawn.

### **Independent Claim 18**

With respect to Claim 18, *O'Neill* does not teach or suggest “the garment comprising at least two separate panels and no more than seven separate panels.” *O'Neill* teaches the use of at least eight separate panels: two arm portions 7 and 9, body portion 11, two leg portions 13 and 15, two additional leg portions, and a crotch portion. In contrast, in the present invention, seven panels are used in one embodiment as disclosed in Figure 2 and five panels are used in another embodiment as disclosed in Figure 4. Reducing the number of panels can actually simplify garment production and result in improved garments. (Pg. 4.) Furthermore wetsuits having a reduced number of panels and seam length will generally keep a user warmer and more comfortable and allow the user a greater degree of flexibility. (Pg. 4.)

Thus, Applicant respectfully requests that the rejection for Claim 18 and its dependent claims be withdrawn.

### **Independent Claim 20**

With respect to Claim 20, the Office Action admits on Page 4 that *O'Neill* does not disclose “A wetsuit comprising a plurality of panels joined together at a plurality of seams, the seams having a total length of less than 32 feet.” While the Office Action claims on Page 4 that garment design variation is well-known and widely practice, *O'Neill* teaches the preferable use of curved seams to allow greater elongation. However, longer seams are not preferable in the present

invention. The present invention teaches the use of shorter seam lengths to improve user comfort and also improve the quality of the wetsuit during production. (Pgs. 3-4.)

Furthermore, the present invention is structurally different from *O'Neill*. *O'Neill* reduces water entry through the use of cuffs 28, 29, and 35 located at a neck portion, wrist portion, and ankle portion respectively of a body. (Figs. 1 and 2.) When the suit is pressurized, the folds at 30 will tend to tighten the cuffs to increase the sealing action. *O'Neill* does not contemplate that water reduction can be accomplished through the reduction of seam lengths.

In contrast, in the present invention, reducing seam length in the present invention may actually increase user comfort and reducing seam length will reduce water entry into the suit and the reduction in water entry increases surfer comfort. (Pg. 4.) It is also contemplated that reducing water entry through the use of reducing seam length may actually provide a safety advantage over *O'Neill* as there may be less pressure on a neck portion of a user. Through *O'Neill's* invention, blood flow in the carotid artery of the user may be inadvertently suppressed, reducing blood flow to a brain of the user if the cuffs are too tight. Any interruption to the blood flow to the brain may be deadly or create severe safety hazards for the user, especially in the ocean. For this reason it is undesirable that scuba divers wear hoods which are too tight. Thus, the present invention may also have safety advantages over *O'Neill*.

Thus, Applicant respectfully requests that the rejection for Claim 20 and its dependent claims be withdrawn.

#### **Independent Claim 24**

The Office Action admits on Page 4 that *O'Neill* does not teach or suggest "A wetsuit comprising a plurality of panels joined together wherein the total number of panels used to form the torso portion of the suit, excluding any dedicated neck panels, is less than or equal to 5."

While there may be a large number of panels used to produce a wetsuit, there is no indication that a wetsuit may be produced with a reduced amount of panels. In the present invention, a wetsuit with a reduced amount of panels may be produced using complex panel designs and strategic seam placement. A reduction in the number of panels used is beneficial in simplifying garment production which can result in improved garments. (Pg. 3-4.) Furthermore, a reduction in the number of panels can actually increase surfer comfort as the wetsuit may be more comfortable and flexible. (Pg. 4.)

Thus, Applicant respectfully requests that the rejection for Claim 24 and its dependent claims be withdrawn.

#### **Independent Claim 26**

The Office Action admits on Page 4 that *O'Neill* does not teach or suggest the use of darts such as “forming a dart which begins at a seam located at an upper rear side of the upper arm section of the sleeve and terminates adjacent an elbow region of the sleeve.” Using darts is advantageous in allowing a reduced amount of panels and seams from being used in the present invention. This allows the wetsuit to not only be easier to produce than conventional methods, but also improves the quality of the wetsuits being produced. As specifically noted on Pages 3 and 4 of the specification of the present invention:

[A]lthough increasing the complexity of panel shapes tend to make the cutting of panels more difficult and often results in more wastage of material, the reduction of the number of panels and reduction in the number of seams and total seam length will actually simplify garment production and result in improved garments. Simplifying garment production will in turn generally result in an increase in the rate of production. Reducing seam length and the number of seams also reduces the chances of seams wearing out or splitting.

Thus, in addition to the physical advantages of the present invention, there are also production advantages due to the panel configurations, seam lengths, and use of darts.

Thus, Applicant respectfully requests that the rejection for Claim 26 and its Dependent Claims be withdrawn.

### **Independent Claim 30**

The Office Action admits on Page 4 that *O'Neill* does not teach or suggest the use of darts such as “forming a dart on each arm section beginning at a seam located at an upper rear side of the upper arm section of the sleeve and terminating adjacent an elbow region of the sleeve.” As previously noted, the use of darts is advantageous in allowing a reduced amount of panels and seams from being used in the present invention. This allows the wetsuit to not only be easier to produce than conventional methods, but also improve the quality of the wetsuits being produced. (Pgs. 3-4).

Thus, Applicant respectfully requests that the rejection for Claim 30 be withdrawn.

### **Dependent Claims**

Dependent Claims 2, 4 – 8, 11, 12, 14 – 17, 19 – 22, 25, 27, and 31 depend from and further define independent Claims 1, 10, 13, 18, 24, and 26 and are thus allowable, too.

**CONCLUSION**

The application is deemed to be in condition for allowance and an expedited notice to this effect is respectfully requested.

If there are any questions with regards to this response, or if the Examiner believes that a telephone interview will help further prosecution of the application, the Examiner is invited to contact the undersigned at the listed telephone number.

Very truly yours,

**SNELL & WILMER L.L.P.**



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